Legislative Ethics Board

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LEGISLATIVE ETHICS BOARD AGENDA AND MEETING NOTICE

October 14, 2014

Senate Hearing Room 3 – John A. Cherberg Building
12:00 PM

1. Approval of minutes from last meeting.
2. Board discussion of rule on infrequent meals – public input - probable action item.
3. Recess public meeting and convene in executive session to discuss quasi-judicial matters related to a pending complaint and prior to determination of reasonable cause. Time to be announced.
4. Reconvene public meeting - any further public comment – other or unfinished business. Adjourn

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BOARD MEETING – OCTOBER 14, 2014

SENATE HEARING ROOM 3 – JOHN A. CHERBERG BUILDING

12 PM

Discussion – rule on gifts of meals from lobbyists

The Board's fourth public hearing on the subject will take place at the time and place noted above. Interested persons are encouraged to attend. The following draft rule will form the basis for the discussion. It is possible that action will be taken by the Board.

Grammatical and clarifying language is identified in the draft. In addition, and in response to questions from the Board and the public, some interpretative examples are included.

Rule Number 5 – **Infrequent Meals**

Introduction
A legislator may accept gifts of food and beverages on infrequent occasions in the ordinary course of meals where attendance is related to the performance of official duties – RCW 42.52.150(5).

Scope of Rule
This rule is limited to food and beverage paid for by a registered lobbyist or lobbyist employer on behalf of a legislator. The rule does not pertain to sections of the Ethics Act which permit complimentary food and beverage in other circumstances. **The effective date of this rule is January 1, 2015**.

Definitions
"Infrequent occasions" means **up to** twelve meals **total** per calendar year.

"In the ordinary course of meals" means breakfast, lunch, or dinner, regardless of cost. A qualifying meal occurs when the guest would normally be expected to sit down and eat, such as in a restaurant or a private residence as opposed to, for example, a ~~legislative~~ **hosted** reception **which is staged primarily as a buffet style event**.

"Attendance related to the performance of official duties" means at least some of the discussion during the meal involves legislative business.

It is presumed that ~~sit down~~ **qualifying meals**, whether breakfast, lunch or dinner, include ~~both food and~~ a beverage therefore they are to be counted against the maximum number of meals allowed.

Examples: **NOTE - The Ethics Act contains a number of gift exemptions for food and beverage. If one of those exemptions applies, the meal does not count toward the 12 meal limit.**

Example 1: **An association which employs a registered lobbyist visits Olympia during a legislative session and invites legislators, over the lunch hour, for complimentary food and conversations about legislative issues. The food is available on a serving table and is basically self-served. While there are some tables and chairs available for the convenience of the guests the event is designed to allow the guests to mingle with one another. Complimentary food and beverage provided at the event are not subject to the statute which limits the number of meals. The Ethics Act presumes that food and beverages consumed at hosted receptions where attendance is related to a legislator's official duties may be accepted without regard to frequency (RCW 42.52.150). A setting in the nature of this buffet style reception, where guests are not expected to sit down and eat, is a hosted reception within the meaning of the Ethics Act (Advisory Opinions 1996 No. 3 and No. 15).**

Example 2: **A legislative committee is pursuing an interim schedule which includes an approved work session with interested stakeholders on a subject of interest to the committee. The work session will last over the lunch hour and the stakeholders, who are lobbyists for a trade organization, offer to provide the working lunch on behalf of their employer. The meal is not subject to the statute which limits the number of meals. The Ethics Act exempts from the definition of "gift" reasonable subsistence expenses paid for by a nongovernmental entity when a legislator or committee staff appears at this work session in an official capacity (RCW 42.52.010-9d).**

Example 3: **Agencies of the Federal and State Government offer complimentary transportation and meals to legislators during a proposed tour of the sites of forest fires in eastern Washington. The tour is designed to acquaint the legislators with the need for increased state funding for restoration and forest fire prevention. Meals provided on the tour are not subject to the statute which limits the number of meals. Payment by a governmental or nongovernmental entity of reasonable subsistence expenses incurred in connection with a legislators appearance in an official capacity are excluded from the definition of gift (RCW 42.52.010-9d).**

Example 4: **A legislator is invited to a complimentary dinner at the home of a lobbyist and is encouraged to bring a non-legislator guest. Although the meal is provided in a buffet-style the guests are expected to sit down and eat. Such a dinner is clearly a meal rather than a reception**

guests are expected to sit down and eat. Such a dinner is clearly a meal rather than a reception (Advisory Opinion 1996 No. 15). The meal is subject to the statute which limits the number of meals. The complimentary meal provided to the guest is a gift which is attributed to the legislator for the purpose of determining whether the annual gift limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the guest (RCW 42.52.150(1).

Example 5: Members of a caucus leadership are invited to use a lobbyist's home for a meeting on legislative issues. The lobbyist is not involved in the substance of the meeting and will not be present but has provided for a complimentary dinner to be catered. The legislators have not met the calendar limit for complimentary meals from lobbyists and seek to categorize the meal as allowable under the statute which limits such meals to infrequent occasions. The meal is a gift and must be treated as a gift from the lobbyist for the purpose of determining whether the annual gift limit has been exceeded. The statute which permits gifts of meals on infrequent occasions requires that there be some discussion of legislative business, presumably the case here, and that the lobbyist-host be present (Advisory Opinion 1998 No. 5).

Example 6: A lobbyist invites a legislator to a morning meeting over a cup of complimentary coffee to discuss a legislative issue. This complimentary beverage is not subject to the statute which limits the number of meals to infrequent occasions. The statute refers to gifts of food and beverage. This rule (5) presumes that beverages of some sort accompany breakfast, lunch or dinner, but there is no presumption that complimentary beverages are accompanied by complimentary food.

Example 7: A school PTA holds an annual fundraising auction and solicits donations to help pay for the event. Some of the donations come from registered lobbyists or their employers. The event includes a sit-down dinner, the PTA invites legislators to attend on a complimentary basis, and it uses a portion of the donations to help offset the free meals. The meals are not subject to the statute which limits meals to infrequent occasions. The Ethics Act presumes that legislators may accept gifts in the form of the cost of admission and the cost of food and beverage consumed at an event sponsored by or in conjunction with a civic, charitable, governmental, or community organization (RCW 42.52.150 – 2j) PROVIDED, the entity, the PTA in this example, is the source of the invitation and determines which legislators are to be invited (Advisory Opinion 1996 No. 16).

Example 8: A corporate entity which employs registered lobbyists hosts a charitable fundraiser for an arts museum, the event includes a sit-down dinner, and legislators are invited on a complimentary basis. The corporation has arranged the evening so that its representatives will be present at the dinner tables with the legislators with the expectation they will discuss the corporation's industry and its legislative concerns. The meal is subject to the statute which limits the number of meals. The lobbyist employer invited the legislators (unlike Example 7), paid for their dinners, and the event involved some discussion of industry and legislative issues so that the attendance of legislators was related to official duties (RCW 42.52.150(5) and Advisory Opinion 1997 No. 10).